

STATE OF IOWA  
PROPERTY ASSESSMENT APPEAL BOARD

**John Landwehr,**  
Appellant,

**v.**

**Polk County Board of Review,**  
Appellee.

**ORDER**

**Docket No. 13-77-0768**  
**Parcel No. 070/02664-000-000**

On December 10, 2013, the above-captioned appeal came on for hearing before the Iowa Property Assessment Appeal Board. The appeal was conducted under Iowa Code section 441.37A(2)(a-b) (2013) and Iowa Administrative Code rules 701-71.21(1) et al. Realtor Elaine Miller of Coldwell Banker Mid-American Group represented Appellant John Landwehr. Assistant County Attorney Ralph E. Marasco, Jr. represented the Board of Review at hearing. The Appeal Board now, having examined the entire record, heard the testimony, and being fully advised, finds:

***Findings of Fact***

John Landwehr is the owner of property located at 3931 13th Street, Des Moines, Iowa. The real estate was classified residential on the January 1, 2013, assessment and valued at \$91,000, representing \$15,400 in land value and \$75,600 in improvement value.

Landwehr protested the assessment to the Polk County Board of Review on the grounds that the property was assessed for more than authorized by law under Iowa Code section 441.37(1)(a)(2) and that there was a change in value since the last assessment under section 441.37(1)(b) and 441.35(2). Landwehr asserted the property's correct value was \$45,000 based on his recent purchase price and reported it was appraised at \$42,500 on his petition. The Board of Review granted the

protest, in part, and reduced the assessed value to \$72,500, representing \$15,400 in land value and \$57,100 in improvement value.

Landwehr then appealed to this Board reasserting his claims. In a re-assessment year such as 2013, a protest based on change in value is akin to a market value claim under section 441.37(1)(a)(2). *See Dedham Co-op. Ass'n v. Carroll County Bd. of Review*, 2006 WL 1750300 (Iowa Ct. App. 2006). Therefore, we will only consider his claim of over-assessment.

According to the property record card, the subject property is a one-story, frame dwelling built in 1922. The dwelling has 854 square-feet of living area, a full, unfinished basement, two open porches, and a small shed. The property is also improved by a 308 square-foot, detached garage built in 1950. The property is listed in above-normal condition with below-average quality grade (5+05). The dwelling sits on a 0.152-acre site.

Elaine Miller testified on behalf of Landwehr and stated he purchased the subject property in February 2013 for \$39,000. She reported the property had been on the market over a year listed at \$69,900 before Landwehr's purchase. In Miller's opinion, the sales price should override an appraisal value and she ultimately requested this Board lower the assessment to \$45,000.

Miller provided the Board of Review with an appraisal completed for Landwehr's lender by Molly Schafer of Schafer Appraisal, LLC in West Des Moines, which the Board of Review submitted to this Board in support of its position. (Exhibit A). Schafer completed the sales comparison approach to value the subject property. She identified three recent arm's-length sales and two active listings as comparable properties located within one mile of the subject property. Schafer noted Landwehr's purchase was from Housing and Urban Development (HUD) following a foreclosure on the prior owner. Sale prices ranged from \$68,000 to \$84,500. Schafer adjusted for site, quality, basement finish, garage size, and other amenities. The appraisal reports: the four-season porch needed flooring, drywall, and painting; needed minor repair to areas of vinyl siding on the back of the dwelling; and the

garage needed painting and trim. All properties were adjusted upward \$1500 to account for the subject's deferred maintenance and the estimated cost to cure its deficiencies. Adjusted sale prices ranged from \$64,500 to \$77,500 with a median of \$68,500, or \$73.30 to \$90.43 per-square-foot. Landwehr purchased the subject property for \$45.14 per-square-foot and is assessed at \$84.89 per-square-foot. We note the purchase price is well below the lower end of the adjusted price range; whereas, the assessed value is within the sales price range of the comparable properties. Schafer concludes a final market value opinion of \$70,000 as of January 25, 2013, the appraisal's effective date. Ultimately, the Board of Review believes the appraisal supports the assessment of \$72,500 and asks this Board to affirm its decision.

The Board of Review appraiser's analysis recommended reducing the original assessed value based on a review of one 2011 and four 2012 sales of similar dwellings. The appraiser also indicated he lowered the condition of the property; however, the initial and revised property records cards both list the property's condition as above-normal. The comparable properties had between 704 and 884 square feet of living area, and were of similar age, condition, construction quality, and location. Sales prices range from \$65,000 to \$96,200. Adjusted sale prices ranged from \$61,152 to \$74,852, with a median of \$73,624, or \$70.94 per-square-foot to \$105.88 per-square-foot. The subject property's assessed value of \$84.89 per-square-foot is within the range of comparable sale properties, while its sale price is significantly below the lower end of the range.

Polk County Deputy Assessor Amy Rasmussen testified on behalf of the Board of Review that the condition of the subject property on the property record card and the appraisal are similar. Rasmussen points out that in the appraisal, the property is rated as C-4 defined as having "some minor deferred maintenance and physical deterioration due to normal wear and tear" requiring only minimal and cosmetic repairs. She indicated the appraisal listed the subject property with an effective age of 20 to 22 years. However, its actual age is listed as 91 years in the appraisal, which is consistent with the

effective year built of 1922 on both the property record card and cost report. We note the subject's property record card lists its condition as above normal. However, when Schafer inspected the property, she observed a level of deferred maintenance, which resulted in an upward adjustment to all comparable sales to account for its inferior condition. Rasmussen also identified a discrepancy between the lack of basement finish listed on property record card and the appraisal, which lists 435 square feet of basement finish. Lastly, Rasmussen testified the sale of the subject property was not an arm's length transaction because it was a foreclosure.

Miller questioned Rasmussen about the Assessor's Office consideration of foreclosed properties when establishing a property's assessment. Rasmussen responded that state statute dictates that the Office cannot consider foreclosure sales, unless adjusted, in arriving at market values for assessment purposes.

After consideration of the evidence and testimony, we find Schafer's appraisal demonstrates the subject property's assessment is somewhat excessive and provides the best evidence of the property's fair market value as of January 1, 2013.

### ***Conclusion of Law***

The Appeal Board applied the following law.

The Appeal Board has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A. This Board is an agency and the provisions of the Administrative Procedure Act apply. Iowa Code § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). The Appeal Board determines anew all questions arising before the Board of Review, but considers only those grounds presented to or considered by the Board of Review. §§ 441.37A(3)(a); 441.37A(1)(b). New or additional evidence may be introduced. *Id.* The Appeal Board considers the record as a whole and all

of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Hy-vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption the assessed value is correct.

§ 441.37A(3)(a). However, the taxpayer has the burden of proof. § 441.21(3). This burden may be shifted; but even if it is not, the taxpayer may still prevail based on a preponderance of the evidence. *Id.*; *Richards v. Hardin County Bd. of Review*, 393 N.W.2d 148, 151 (Iowa 1986).

In Iowa, property is to be valued at its actual value. Iowa Code § 441.21(1)(a). Actual value is the property's fair and reasonable market value. § 441.21(1)(b). Market value essentially is defined as the value established in an arm's-length sale of the property, or a "fair and reasonable exchange . . . between a willing buyer and a willing seller." *Id.* Sale prices of the property or comparable properties in normal transactions are to be considered in arriving at market value. *Id.* In interpreting this provision, the Iowa Supreme Court has stated that while the sales price of a property may be evidence of its market value, the sales price *alone* is not determinative of the market value. *Riley v. Iowa City Bd. of Review*, 549 N.W.2d 289 (Iowa 1996). Rather, the subject property's sales price in a normal transaction is a matter to be considered in arriving at market value but does not *conclusively* establish the subject's market value. *Id.* at 290. Section 441.21(1)(b) further states the sale prices of properties in abnormal transactions not reflecting market value must not be taken into account, or must be adjusted to eliminate the effect of factors which distort market value, including . . . foreclosure or other forced sales.

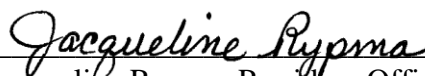
In an appeal alleging the property is assessed for more than the value authorized by law under Iowa Code section 441.37(1)(a)(2), the taxpayer must show: 1) the assessment is excessive and 2) the subject property's correct value. *Boekeloo v. Bd. of Review of the City of Clinton*, 529 N.W.2d 275, 277 (Iowa 1995).

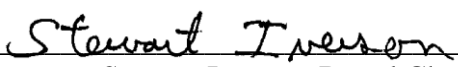
The evidence in this appeal includes a sale of Landwehr's property in February 2013 for \$39,000, which we find may not be representative of its market value. The Board of Review asserted


the sale itself is abnormal because it was a sale by a lender. We agree. Because of this and the language in *Riley*, we decline to rely on the sale price. We find the best evidence of the subject property's fair market value as of January 1, 2013, is Schafer's appraisal valuing the property at \$70,000. For the foregoing reasons, we determine Landwehr met his burden of demonstrating the subject property is over-assessed.

THE APPEAL BOARD ORDERS the January 1, 2013, assessment of the Board of Review is modified to a total value of \$70,000, allocated \$15,400 in land value and \$54,600 in improvement value. The Secretary of the State of Iowa Property Assessment Appeal Board shall mail a copy of this Order to the Polk County Auditor and all tax records, assessment books, and other records pertaining to the assessment referenced herein on the subject parcel shall be corrected accordingly.

Dated this 13th day of January, 2014.

  
Jacqueline Rypma, Presiding Officer

  
Stewart Iverson, Board Chair

  
Karen Oberman, Board Member

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